IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10208 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VEDVA VAGRI RAGHAV RAMABHAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

Mr.H.L.Jani, learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 03/03/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the order of detention passed against the petitioner on 12.8.99 by the District Magistrate, Bhavnagar detaining him under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is lodged in the District Jail, Junagadh.

The grounds of detention show that 3 criminal cases were registered against the petitioner in the years 1998 and 1999 for various offences under the Indian Penal Code. As per the detention order, the investigation was pending at the time when the detention order was passed but it was given out that now chargesheet has been filed in all the 3 cases against the petitioner. The statements of 4 witnesses have also been recorded on 5.8.99 with regard to his anti social activities and all the 4 witnesses have deposed against the petitioner.

Learned counsel for the petitioner has argued more than one points challenging the order of detention including the ground that the statements of the witness had not been verified personally by the detaining authority after summoning the witnesses and the mere endorsement of verification by detaining authority is not enough to satisfy the requirement of subjective satisfaction for the purpose of detention. In the opinion of this court, it is not necessary to enter into the other grounds raised by the petitioner as this Special Civil Application can be decided on the point that the detaining authority did not summon the witnesses before it and the bald verification recorded under his seal on the statements of the witnesses is not enough to verify the requirement of the subjective satisfaction on the basis of the statement of such witnesses. Learned counsel for the petitioner has placed reliance on an unreported decision of a coordinate Bench of this court in Special Civil application No.10537/98 decided on 11.8.99 wherein exactly on such ground the detention order was set aside and the petition is allowed. No doubt in the reply, the detaining authority has stated that it had verified the statements personally but the fact remains that there is nothing on record to show that the witnesses were summoned by the detaining authority itself before the endorsement of the verification was made. Such a verification therefore does not meet the requirements of law for the purpose of arriving at the subjective satisfaction to justify the detention.

Accordingly the impugned detention order dt.12.8.99 passed by the District Magistrate, Bhavnagar cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.